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Federal Trade Commission

10 **UNITED STATES DISTRICT COURT**  
11 **NORTHERN DISTRICT OF CALIFORNIA**  
12 **SAN FRANCISCO DIVISION**

13 **FEDERAL TRADE COMMISSION,**

14 Plaintiff,

15 v.

16 NEXTCLICK MEDIA, LLC, a Delaware  
limited liability company,  
17 dba StopSmoking180.com,  
StopSmokingResolution.com,  
18 BeautifulSkin.com, and  
OnLineDirectProducts;

19 NEXT INTERNET, LLC, a Delaware  
limited liability company;

21 KENNETH CHAN, individually and as an  
officer of NEXTCLICK MEDIA, LLC, and  
22 NEXT INTERNET, LLC; and

23 ALBERT CHEN, individually and as an  
officer of NEXTCLICK MEDIA, LLC,  
24

25 Defendants.  
26

Case No. 4:08-cv-01718 VRW

**PLAINTIFF'S MOTION FOR A  
TEMPORARY RESTRAINING  
ORDER WITH ASSET FREEZE,  
APPOINTMENT OF RECEIVER,  
ORDER TO SHOW CAUSE WHY A  
PRELIMINARY INJUNCTION  
SHOULD NOT ISSUE, AND  
OTHER EQUITABLE RELIEF**

27 Plaintiff Federal Trade Commission ("FTC" or "Commission"), pursuant to Rule  
28 65(b) of the Federal Rules of Civil Procedure and Local Rule 65-1, respectfully applies

1 to this Court on an expedited basis for a Temporary Restraining Order (“TRO”). As  
2 grounds for this application, the Commission states that Defendants are engaging in acts  
3 and practices that violate Sections 5(a) and 12 of the Federal Trade Commission Act  
4 (“FTC Act”), 15 U.S.C. §§ 45(a) and 52; Section 907(a) of the Electronic Fund Transfer  
5 Act (“EFTA”), 15 U.S.C. § 1693e(a); and Section 205.10(b) of Regulation E, 12 C.F.R.  
6 § 205.10(b), as set forth in the Complaint, Memorandum of Points and Authorities in  
7 support of this motion, and the supporting declarations and exhibits. Plaintiff asks that  
8 the Court enter a TRO that will:

- 9 1. Temporarily restrain Defendants from violating Sections 5(a) and 12 of the  
10 FTC Act, 15 U.S.C. §§ 45(a) and 52; Section 907(a) of the EFTA, 15  
11 U.S.C. § 1693e(a); and Section 205.10(b) of Regulation E, 12 C.F.R.  
12 § 205.10(b);
- 13 2. Temporarily restrain Defendants from disposing of individual or corporate  
14 assets, including financial accounts, real and personal property, safe deposit  
15 boxes, and other assets, all of which are subject to disgorgement and claims  
16 of restitution;
- 17 3. Temporarily restrain financial institutions from permitting Defendants to  
18 dispose of the assets of Defendants and from granting Defendants access to  
19 safe deposit boxes;
- 20 4. Require financial institutions to file a statement describing any assets held  
21 on behalf of Defendants, wherever held, and to provide the Commission  
22 with copies of all records pertaining to Defendants’ financial accounts;
- 23 5. Temporarily restrain Defendants from destroying or disposing of any  
24 business records or from failing to maintain business records;
- 25 6. Require Defendants to complete financial accounting forms and describe  
26 their present individual and corporate financial conditions;
- 27 7. Require Defendants to repatriate all assets and corporate records that are  
28 located outside of the United States;

- 1 8. Require the individual Defendants to give notice of their affiliation with
- 2 any new or currently-existing business entity;
- 3 9. Temporarily restrain Defendants from selling consumer list information;
- 4 10. Appoint a temporary receiver over Defendants NextClick Media, LLC, dba
- 5 StopSmoking180.com, StopSmokingResolution.com, BeautifulSkin.com,
- 6 and OnLineDirectProducts; and Next Internet, LLC (“Receivership
- 7 Defendants”);
- 8 11. Temporarily stay any lawsuit against Receivership Defendants;
- 9 12. Permit expedited discovery for the taking of depositions, interrogatories,
- 10 production of documents, and requests for admissions pursuant to Rules
- 11 30(a), 33, 34 and 36 of the Federal Rules of Civil Procedure, concerning
- 12 the location of Defendants or their assets;
- 13 13. Allow the Commission’s employees to have access to any Defendant’s
- 14 business premises;
- 15 14. Permit the Commission to obtain consumer credit reports for Defendants
- 16 pursuant to 15 U.S.C. § 1681(1);
- 17 15. Require Defendants to immediately provide a copy of the attached TRO to
- 18 each of their employees and subsidiaries;
- 19 16. Require Defendants to show cause why a preliminary injunction would not
- 20 issue, extending the foregoing temporary relief until the merits of the
- 21 Commission’s allegations are finally adjudicated; and
- 22 17. Provide other ancillary equitable relief.
- 23

24 The interests of justice require that this motion be heard on an expedited basis,  
25 pursuant to Fed. R. Civ. P. 65(b) and Local Rule 65-1. Hearing this application on an  
26 expedited basis will prevent immediate and irreparable damage to the Commission’s  
27 efforts to redress consumer losses that have resulted from Defendants’ law violations.  
28 Issuing the TRO with asset freeze and appointment of a temporary receiver will facilitate

1 full and effective relief by preserving the status quo pending a hearing on the requested  
2 Preliminary Injunction.

3 This motion is accompanied by a supporting Memorandum, and a proposed TRO  
4 and Preliminary Injunction.

5 Pursuant to Local Rule 65-1(b), plaintiff will provide timely notice to Defendants  
6 once the Court has set a hearing date for this motion.

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9  
10 Dated: March 31, 2008

Respectfully Submitted,

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12 General Counsel

13 /S/  
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18 Federal Trade Commission  
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